IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5519 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RANA SAPANKUMAR RAJENDRAKUMAR,MINOR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5519 of 2003

MR PUSHPADATTA VYAS for Petitioner No. 1

MR DIPEN DESAI A.G.P. for Respondent No. 1

MR HEMANG RAVAL for MR AD OZA for Respondent No. 2

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 08/05/2003

ORAL JUDGEMENT

Rule. Learned advocate Shri Hemang Raval waives service of rule on behalf of respondent no.1 - Board and

learned A.G.P. Shri Dipen Desai waives service of rule on behalf of respondent no.2.

2. Learned advocate Shri Pushpadatta Vyas has submitted that the petitioner's date of birth has been incorrectly recorded in the school record and when the said fact was learnt by his father, he had approached the school authorities with a request to make necessary change in the school's record. It has been submitted by him that when the petitioner made a request to the Principal of Shri Maharaja Rajendrasinh Vidyalaya, Rajpipla to make necessary change in the school's record with regard to his birth date, the petitioner was informed that it was not possible to make any change in the school's record and, therefore, the petitioner has approached this Court with a prayer that necessary direction be given to the school authorities or to respondent no.1 - Board for making necessary change in the school's record so that correct birth date of the petitioner can be shown in the school leaving certificate which might be issued at the time of leaving the school. It has been submitted by learned advocate Shri Vyas that the correct birth date of the petitioner is 14th October, 1986, and not 11th June, 1986 as recorded in the school's record. So as to substantiate the submission made by the petitioner, the learned advocate has relied upon the entry made in the birth register by the Chief Officer of Jambusar Nagar Palika, Jambusar, which is at annexure-A to the petition.

3. In pursuance of notice issued by this Court, Shri Hemang Raval has appeared for respondent no.1 - Board and has submitted that it is not open to the school authorities to make any change in the school record without permission of the concerned District Education Officer. He has relied upon Regulation 12-A of the Gujarat Secondary Education Regulation, 1974 to substantiate his submission.

4. He has further submitted that at present the petitioner has already completed her studies in secondary school and, therefore, even Regulation 12-A of the Regulations would not apply to the petitioner but he has added that he has no information whether there are any separate Regulations for higher secondary schools.

5. Looking to the fact that there are no Regulations governing the manner of making a change in birth date of a student who is studying in higher secondary school, it would be just and proper to apply the regulations applicable to the students studying in a secondary school

and suggest the petitioner to approach the D.E.O., through the school wherein he is studying. The D.E.O., after verifying all the relevant facts, should give necessary direction to the school wherein the petitioner is studying for making appropriate change in its record with regard to the birth date of the petitioner, if he finds it necessary and legal to do so.

6. In the circumstances, the petitioner has submitted that the petitioner would submit his application to the District Education Officer by filing an application through Shri Maharaja Rajendrasinh Vidyalaya, Rajpipla wherein the petitioner is studying within a period of six weeks from today and the school shall forward the application alongwith evidence submitted by the petitioner to the D.E.O. within a period of one week and thereafter the D.E.O. shall take a final decision on the application within a period of four weeks from the date of the receipt of the application from Shri Maharaja Rajendrasinh Vidyalaya, Rajpipla.

7. So as to enable the petitioner to approach the D.E.O., the petitioner seeks permission to withdraw this petition. Permission for withdrawal of the petition is granted. Needless to say that if the petitioner is aggrieved by an order which might be passed by the D.E.O., it would be open to the petitioner to take appropriate action for challenging the order.

8. The details with regard to the date of birth were given by the petitioner's parents to the school authorities and only on the basis of the said details the certificate was given to the petitioner. Only on account of a mistake committed by the petitioner, the D.E.O., will have to look into the record and decide whether the school's record should be permitted to be changed. Looking to the said fact, the petitioner shall pay a sum of Rs.2,500/- to the concerned D.E.O., by way of costs. The said amount shall be paid alongwith the application which might be forwarded by Shri Maharaja Rajendrasinh Vidyalaya, Rajpipla to the D.E.O.

The petitioner shall furnish a copy of this petition to the Registry of this Court so that the copy of the petition can also be forwarded alongwith a copy of this order to the concerned D.E.O., by the petitioner.

In view of the above order, rule is made absolute to the aforesaid extent.

Direct Service is permitted.

[A.R. DAVE, J.]

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